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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/876,504

06/07/2001

Philip H. Burrus IV

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07/28/2006

MOTOROLA INC

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EXAMINER

LAstra, DANIEL

ART UNIT

PAPER NUMBER

3622

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/876,504	Applicant(s) BURRUS, PHILIP H.	
	Examiner DANIEL LASTRA	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-4 and 6-16 have been examined. Application 09/876,504 (ELECTRONIC COUPON AND CUSTOMER DATA ACQUISITION APPARATUS AND METHOD) has a filing date 06/07/2001.

Response to Amendment

2. In response to Abandonment filed 03/08/2006, the Applicant filed a Petition to revive on 05/05/2006 and filed an Amendment on 04/07/2006, which amended claims 1, 6-8 and 10-12.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Sloane (US 5,918,211).

As per claims 1 and 6, Sloane teaches:

An electronic savings system, the system comprising:

a portable electronic device having unique personal identification data stored therein (see column 9, lines 5-20) and;

a means of transmitting the unique personal identification data to a store (see column 9, lines 5-20);

wherein when the store receives the unique personal identification data, a store discount is applied to a plurality of specially marked store discounted items (see col 8, lines 40-50; col 9, lines 5-20).

As per claim 2, Sloane teaches:

The system of claim 1, further comprising a simulated credit card swipe coupled to the portable electronic device (see figure 10).

As per claim 7, Sloane teaches:

The method of claim 6, further comprising the steps of:

- a. providing a central computer (see col 2, lines 60-67);
- b. transmitting the unique personal identification data to the central computer (see col 2, lines 60-67)) and
- c. cross referencing the unique personal identification data with a stored data profile (see column 3, lines 30-45).

As per claim 8, Sloane teaches:

The method of claim 7, further comprising the steps of:

- a. transmitting product data from the store register to the central computer (see column 3, lines 30-45); and
- b. storing the product data with a cross-reference to the unique personal identification data (see column 3, lines 30-45).

As per claim 9, Sloane teaches:

The method of claim 7, wherein the product data is used for inventory management (see column 9, lines 5-20).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sloane (US 5,918,211) in view of Swartz (US 6,243,447).

As per claim 3, Sloane teaches:

The system of claim 1, but fails to teach wherein the portable electronic device comprises a cellular telephone and the unique personal identification data comprises a user's telephone number. However, Swartz teaches a system where customers use their cellular phones to make transactions in a point of sale terminal and where said customers' cellular phone numbers are used for identifying said customers (see Swartz column 7, lines 10-17). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Sloane would allow customers to use their cellular phones to make point of sale terminal transactions, as taught by Swartz in order that participating stores do not have to provide customers with their own stores' portable terminals.

As per claim 4, Sloane teaches:

The system of claim 3 wherein the universal savings system comprises a discount card associated with a particular store (see col 8, lines 50-64).

Claims 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz (US 6,243,447) in view of Sloane (US 5,918,211).

As per claim 10, Swartz teaches:

A method of acquiring customer data, the method comprising the steps of:

- a. providing a store register capable having unique store identification data stored within, wherein the store register comprises a means of transmitting the unique store identification data (see column 7, lines 30-40);
- b. providing a personal electronic device capable of receiving the unique store identification data (see column 9, lines 30-38);
- c. transmitting the unique store identification data from the store register to the portable electronic device (see column 9, lines 30-38); and
- d. Swartz fails to teach applying a store discount to the price of all specially marked, store discounted items upon successful transmission of the unique store identification data. However, Sloane teaches a system which gives customers discount upon successful transmission of said customers' identification data (see col 3, lines 30-45). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Swartz would use the store and customers' identification data in order to give customers appropriate discounts for products of an specific store.

As per claim 11, Swartz teaches:

The method of claim 10, further comprising the steps of:

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- a. transmitting the unique store identification data from the personal electronic device to a remote computer (see column 9, lines 30-37);
- b. transmitting customer data from the personal electronic device to a remote computer (see Swartz column 9, line 46 – column 10, line 24); and
- c. transmitting product data from the personal electronic device to a remote computer (see column 9, line 46 – column 10, line 40).

As per claim 12, Swartz teaches:

The method of claim 11, further comprising the steps of:

- a. processing the unique store identification data, the customer data and the product data (see column 10, line 40 – column 11, line 28); and
- b. producing a report with the unique store identification data, the customer data and the product data listed in an organized format (see column 3, lines 35-38; column 11, lines 20-27).

As per claim 13, Swartz teaches:

The method of claim 12, wherein the personal electronic device comprises a cellular telephone (see Swartz column 6, lines 20-25).

As per claim 14, Swartz teaches:

The method of claim 13, teaches wherein the store register is linked to at least one other store register via a network (see figure 3).

As per claim 15, Swartz teaches:

The method of claim 14, further comprising the step of distributing advertising literature based upon the report (see column 4, lines 21-32).

As per claim 16, Swartz teaches:

The method of claim 14, further comprising the step of using the report for inventory management (see column 4, lines 20-26).

Response to Arguments

5. Applicant's arguments with respect to claims 1-4 and 6-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

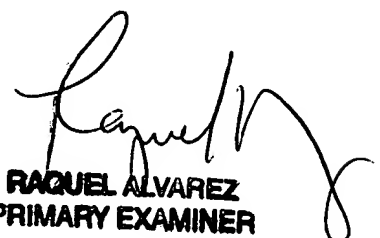
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra
July 21, 2006


RAQUEL ALVAREZ
PRIMARY EXAMINER